



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 09/464,426 | 12/16/1999 | CARLOS O. STALGIS | IN0964Q | 7516 |
| 24265 | 7590 | 09/09/2003 | | |
| SCHERING-PLOUGH CORPORATION PATENT DEPARTMENT (K-6-1, 1990) 2000 GALLOPING HILL ROAD KENILWORTH, NJ 07033-0530 | | | EXAMINER FOLEY, SHANON A | |
| | | | ART UNIT 1648 | PAPER NUMBER |

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/464,426 | STALGIS ET AL. |
| Examiner | Art Unit | |
| Shanon Foley | 1648 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 August 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 38-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 45-52 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) 38-44 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). 21 . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

This application is in condition for allowance except for the following formal matters:

Claim Objections

Claim 38 is objected to because of the following informalities: the 8th line of the claim contains a typo. The claim states that 1.5 kilograms per micrograms of pegylated interferon are administered when the units should be “micrograms per kilogram” to be consistent with the teachings in the specification and the claims. This objection also affects claims 39-44.

Appropriate correction is required.

Specification

The disclosure is objected to for failing to adhere to the requirements of the sequence rules. Applicant must append SEQ ID Nos. to all mentions of specific amino acid sequences comprising four or more amino acids and ten or more nucleic acids in the specification. Specific examples within the specification that do not comply with the sequence rules are found on page 12, line 31 to page 13, line 1. Applicant is required to append a SEQ ID NO. to any sequence applicable to the rule. See 37 CFR § 1.821 (a)-(d) and MPEP § 2422.

Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Reasons for Allowance

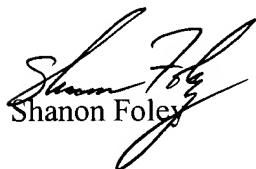
US Patents 6,172,046 B1 and US 6,472,373 are no longer applicable as prior art because the references do not anticipate the invention under 35 USC 102(e) and are disqualified under 35 USC 103(c), see MPEP § 706.02(l)(3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shanon Foley whose telephone number is (703) 308-3983. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (703) 308-4027. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.



Shanon Foley



JAMES HOUSEL 9/8/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600